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**IN THE
COURT OF APPEALS OF INDIANA**

JAMAAL WRIGHT,)	
)	
Appellant-Defendant,)	
)	
vs.)	No. 48A02-0605-CR-401
)	
STATE OF INDIANA,)	
)	
Appellee-Plaintiff.)	

APPEAL FROM THE MADISON SUPERIOR COURT
The Honorable Dennis D. Carroll, Judge
Cause No. 48D01-0207-FA-335

February 22, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

KIRSCH, Chief Judge

Jamaal Wright appeals the revocation of his probation, alleging that the trial court failed to consider a medical injury or disability as a mitigating circumstance, failed to advise Wright of his right against self-incrimination, and erred by allowing a police officer to testify regarding videotaped witness statements.

We affirm.

FACTS AND PROCEDURAL HISTORY

In September 2002, Wright faced charges of Class A felony dealing in cocaine. In November 2002, Wright appeared for a hearing and was advised of his rights. Thereafter, in January 2003, Wright pled guilty to a lesser-included offense of Class B felony dealing in cocaine.¹ The trial court sentenced him to ten years, of which four years were suspended and Wright was placed on probation.² In addition to not violating the laws of Indiana or the United States, the conditions of Wright's probation included: complying with treatment recommendations of the Center for Mental Health, abstaining from use of alcoholic beverages; maintaining employment and verifying it to the probation department; and complying with curfew restrictions from 12:00 a.m. to 6:00 a.m.

On September 24, 2004, the State filed a petition alleging a violation of Wright's probation for use of alcohol. Following an evidentiary hearing, the court sanctioned Wright

¹ See IC 35-48-4-1(a)(1).

² Wright was ordered to serve fifty-four months at the Indiana Department of Correction and, thereafter, eighteen months in a work release program. On September 7, 2004, the executed portion of the work release sentence was modified to in-home detention. In July 2005, Wright was released from in-home detention because of financial hardship related to the in-home detention fees, and the remaining period of in-home detention was added to his probation period (i.e., four years and 158 days).

by placing him on Sobrietor, an alcohol monitoring device, as an additional term of his probation.

The evidence most favorable to the probation revocation reveals that at approximately 3:00 a.m. on March 4, 2006, Officer Marty Dulworth of the Anderson Police Department was dispatched to a motorcycle club for a fight involving handguns. When Officer Dulworth arrived at the club, it was “mass confusion.” *Tr.* at 20. However, a woman later identified as Loretta Gardner ran up to his police car and pointed to Wright, indicating to Officer Dulworth, “He’s the one with the gun.” *Id.* Subsequently, Loretta’s husband, John Gardner, also identified Wright to Officer Dulworth as one of two men brandishing a handgun at the club. Officer Dulworth noted that there was an odor of alcoholic beverage on Wright’s breath. Wright was arrested.

Officer Dulworth did not have a video camera in his vehicle; however, a “scene tech,” who takes photographs and videos for the police department, arrived at the scene and videotaped the statements that the Gardners gave to Officer Dulworth. *Id.* at 21.

On March 8, 2006, the State filed a notice of probation violation alleging that Wright had committed Class B felony unlawful possession of a firearm by a serious violent felon, Class D felony criminal recklessness, Class D felony pointing a firearm, and Class B misdemeanor public intoxication, all stemming from the March 4 incident at the motorcycle club. In addition, the notice alleged that Wright failed to comply with mental health treatment recommendations, failed to abstain from use of alcohol, failed to maintain employment, and violated curfew. On March 21, 2006, Wright appeared for an initial

hearing via video, and the court advised him of his constitutional rights. *Appellant's App.* at 11.

Wright appeared for the probation revocation hearing on April 18, 2006, at which time he was “sworn and examined as to his constitutional rights.” *Id.* After hearing the evidence and argument, the trial court found that Wright had violated his probation by: (1) failing to complete the recommended mental health treatment; (2) allegedly consuming alcohol and being arrested for public intoxication on March 4, 2006; (3) failing to maintain employment and verify employment to the probation department; and (4) violating curfew on March 4, 2006. *Id.* Thereafter, the court revoked Wright’s probation and ordered him to serve three and one-half years of his previously suspended sentence. He now appeals.

DISCUSSION AND DECISION

Probation is a favor granted by the State, not a right to which a criminal defendant is entitled. *Sanders v. State*, 825 N.E.2d 952, 955 (Ind. Ct. App. 2005), *trans. denied*. More specifically, probation is a criminal sanction wherein a convicted defendant specifically agrees to accept conditions upon his behavior in lieu of imprisonment. *Brabandt v. State*, 797 N.E.2d 855, 860 (Ind. Ct. App. 2003). These restrictions are designed to ensure that the probation serves as a period of genuine rehabilitation and that the public is not harmed by a probationer living within the community. *Id.* A defendant is not entitled to serve a sentence in a probation program; rather, such placement is a “‘matter of grace.’” *Id.* (quoting *Cox v. State*, 706 N.E.2d 547, 549 (Ind. 1999)).

A probation revocation hearing is civil in nature, and the State need only prove the alleged violations by a preponderance of the evidence. *Id.* Generally, a violation of a single

condition of probation is sufficient to revoke probation. *Id.* at 861. If a court finds that a probationer has violated a condition of probation, it may either continue probation, with or without modifying or enlarging the conditions, extend probation for not more than one year beyond the original probationary period, or order execution of the initial sentence that was suspended. IC 35-38-2-3(g); *Brabandt*, 797 N.E.2d at 860.

When reviewing an appeal from the revocation of probation, we consider only the evidence most favorable to the judgment, and we will not reweigh the evidence or judge the credibility of the witnesses. *Sanders*, 825 N.E.2d at 955-56. We review a trial court's decision to revoke probation and a trial court's sentencing decision in a probation revocation proceeding for an abuse of discretion. *Id.* at 956. If there is substantial evidence of probative value to support the trial court's conclusion that a defendant has violated any terms of probation, we will affirm its decision to revoke probation. *Brabandt*, 797 N.E.2d at 861.

In this appeal, Wright purports to make three challenges to the revocation of his probation: (1) that the court failed to consider "Wright's serious injury," *Appellant's Br.* at 6, as a mitigating circumstance to the charge that he violated probation by his failure to maintain employment; (2) that the court failed to advise him of his right against self-incrimination, and, therefore, the statements he made at the probation revocation hearing could be used against him in a pending trial on the charge of public intoxication; and (3) that the trial court should not have permitted Officer Dulworth's testimony concerning the Gardners' videotaped statements.

Initially, we note that each of Wright's arguments lacks cogent reasoning, explanation, or analysis, and fails to cite to authorities and parts of the record on appeal. Therefore, he

has violated Ind. Appellate Rule 46(A)(8), and his claims are waived. *Davis v. State*, 835 N.E.2d 1102, 1113 (Ind. Ct. App. 2005), *trans. denied* (2006); *Bonner v. State*, 776 N.E.2d 1244, 1247 n. 3 (Ind. Ct. App. 2002), *trans. denied* (2003). Regardless of this, Wright's claims still fail.

The record before us does not name, describe, or in any way identify any serious injury or medical disability that supposedly prevented Wright from obtaining and maintaining employment, and which the probation revocation court allegedly should have considered. In fact, even though Wright testified at the revocation hearing, he said nothing about any injury or medical condition that did, would, or could affect his ability to work.

Wright's next claim, that the court failed to advise him of his Fifth Amendment rights, and that he was harmed thereby because he incriminated himself by testifying regarding his consumption of alcohol, is refuted by the facts that Wright's counsel called him to testify and that he concedes he was under no compulsion to do so. Additionally, the record indicates that Wright was advised of his constitutional rights at least three times under this cause number, including at the probation revocation hearing. *Appellant's App.* at 11.

His final claim, that the court should have excluded Officer Dulworth's testimony regarding the Gardners' videotaped statements, is too late. Wright posed no objection on any of the multiple occasions that the videotape was mentioned during the probation revocation hearing. *See Tr.* at 21, 29, 51, 52. Consequently, he has waived the issue for appeal. *Oldham v. State*, 779 N.E.2d 1162, 1170 (Ind. Ct. App. 2002), *trans. denied* (2003) (to preserve issue regarding admission of evidence, complaining party must have made a

contemporaneous objection to the introduction of evidence at trial; otherwise, error is waived).

Perhaps of the greatest significance is the fact that Wright admits to, or otherwise does not challenge, several of the probation violations that the trial court found to exist, namely, his violation of curfew, his failure to abstain from alcohol, and his failure to verify employment with the probation department. We will affirm a probation revocation if there is substantial evidence of probative value that a defendant has violated any term of probation. *Brabandt*, 797 N.E.2d at 861. The trial court's revocation of Wright's probation was proper.

Affirmed.

RILEY, J., and FRIEDLANDER, J., concur.